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) Docket No. 00-00562
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United Cities Gas Company by and through counsel, submits the attached Affidavit of Bob Elam in support of its Motion for Partial Summary Judgment.

BAKER, DONELSON,
BEARMAN & CALDWELL
A Professional Corporation

John A. Connor

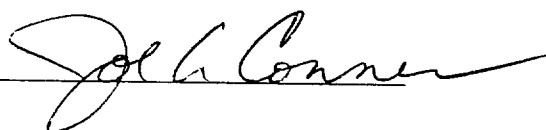
Attorneys for United Cities Gas
Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been mailed, postage prepaid, to the following person(s) , this 29th day of October, 2001.

Richard Collier
General Counsel, Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Timothy C. Phillips
Office of Attorney General and Reporter
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, TN 37202

By: 

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:)	
)	
UNITED CITIES GAS PETITION FOR)	
APPROVAL OF NEW OR REVISED)	Docket No. 00-00562
FRANCHISE AGREEMENTS WITH)	
KINGSPORT, BRISTOL, MORRISTOWN)	
AND MAURY COUNTY)	
)	
)	

AFFIDAVIT OF BOB ELAM

STATE OF TENNESSEE)
)
COUNTY OF Washington)

Before me, the undersigned Notary Public, personally appeared Bob Elam who after being duly sworn stated as follows:

1. I, Bob Elam, am the Vice President of United Cities Gas, Division of Atmos Energy Corporation, and I have personal knowledge of all matters set forth below.
2. Attached as Exhibits 1 and 2 to this Affidavit are the previous franchise agreements between the Cities of Morristown and Bristol, Tennessee.
3. Prior to the expiration of the City of Morristown franchise, United Cities entered negotiations with Morristown for a new franchise agreement. The City subsequently passed Ordinance No. 3022 which granted United Cities the franchise currently before the TRA for approval. This franchise provides for a 15-year term with a 5% franchise fee on gross receipts from retail gas sales. This is the same amount of franchise fee that was provided for in the previous franchise agreement with Morristown.

4. The new franchise agreement resulted from a series of negotiations over the terms and conditions of several substantive provisions. The franchise agreement was extensively modified from its previous form and included various new provisions including the requirement of United Cities to maintain an office within the City, specifying the gas main extension policies, and a default and cure provision.

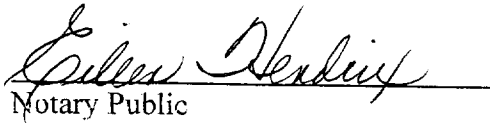
5. The previous franchise with the City of Bristol included a 5% franchise fee on gross revenues from gas sold by United Cities within the City of Bristol. In 1999, United Cities entered a series of negotiations with the City of Bristol to amend the franchise to provide for, among other things, an increase in the franchise fee by 1%. The term of the Bristol franchise was also increased to 30 years from the date of the amendment. United Cities also agreed to give the City the right of first refusal should United Cities receive an offer from a third party to acquire the assets of the company which lie within the City.

FURTHER AFFIANT SAITH NOT.



Bob Elam, Affiant

Sworn to and subscribed before me
this 26th day of October, 2001.


Notary Public

My Commission Expires: 10/27/04

ORDINANCE NO. 2203

AN ORDINANCE GRANTING TO UNITED CITIES GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A SYSTEM OF GAS MAINS AND SERVICE PIPES FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING GAS IN, UPON, ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND PUBLIC GROUNDS OF THE CITY OF MORRISTOWN, TENNESSEE.

SECTION I. There is hereby granted to United Cities Gas Company an Illinois Corporation (hereinafter referred to as "Company"), its successors and assigns, the right, authority, privilege and franchise to construct, maintain and operate a system of gas mains, service pipes, regulator stations and all other necessary and appropriate equipment and facilities for the distribution of gas in, upon, across, along and under the highways, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways and public grounds in the present or future corporate limits and in the environs of the community of the City of Morristown, Hamblen County Tennessee (hereinafter referred to as "City"), for the supplying and selling of manufactured, natural or co-mingled gas to said City, and the inhabitants, institutions, and businesses thereof; and for such purposes to construct, lay down, maintain, renew, replace repair, extend and operate all necessary gas mains, service pipes and other appliances, fixtures and facilities as may be necessary for the transmission, distribution and sale of such gas to said City and the inhabitants, institutions and businesses thereof, for domestic, commercial, industrial and institutional uses, and such other purposes for which it is or may hereafter be used, for a period of twenty years from and after approval of this ordinance. This ordinance shall be reviewed every ten years in order to update any of the various sections as required.

SECTION 2. All gas mains, service pipes, fixtures, facilities and other appliances so laid, constructed and maintained by virtue of this ordinance, shall be laid, constructed and maintained in accordance with acceptable engineering practice and in full accord with any and all applicable engineering codes adopted or approved by the trade or profession, such as the American National Standard 'National Fuel Gas Code, (NFPA no. 54 & ANSI Z223.1, 1974), and in accordance with any applicable Statute of the State of Tennessee, Ordinances of the City of Morristown and the rules and regulations of the State of Tennessee Public Service Commission or of any other Governmental Regulatory Commission, Board of Agency having jurisdiction over the Company, and shall be so constructed as not to interfere with the drainage of said City, or interfere with or injure any sewer or any other improvement which said City has heretofore made or may hereafter make in, upon, across, along or under any highway, street, avenue, road, alley, lane, way, utility easement, parkway, or other public grounds, or unnecessarily obstruct or impede such highway, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways or other public grounds of said City and shall conform to the grade as then or hereafter established. All new work in crossing improved streets shall be done by boring, unless permission is given in writing to do such work in another manner. All new work shall be installed with a cover of at least thirty inches (30"). See Ordinance No. 2132. In the event the City determines, in its sole discretion, repairs to streets or other public improvements are not properly or timely accomplished, the City may make such repairs as it deems appropriate and the Company shall reimburse the City its actual cost of repairs plus an amount equal to 30% of said cost. When highways, streets, avenues, roads, alleys, lanes, ways, utility easements, parkways or other public grounds are opened or any other opening is made by the Company within the City, whether the same be made for the purpose of laying, constructing, replacing or repairing the mains, pipes and other appliances and fixtures of said Company, said Company shall place

and maintain all necessary safety devices, barriers, lights and warnings to properly notify all persons of any dangers resulting from such entrances. As a guide for said safety operations, use the 'Manual on Uniform Traffic Control Devices for Streets and Highways' as approved by the Federal Highway Administrator as the National Standard for all highways open to public travel in accordance with Title 23, US Code, Sections 109(b), 109(d) and 402(a).

SECTION 3. In the event it becomes necessary or expedient for the City to change the course or grade of any highway, street, avenue, road, alley, lane, way, utility easement, parkway or other public grounds in which the Company is maintaining gas mains, pipes or other appliances and fixtures, the Company, upon th written request of the City given at least thirty (30) days in advance of proposed construction, will remove or change, at no cost to the City, the location or depth of such mains, pipes, or other appliances and fixtures as necessary to conform to the proposed street alteration. This work shall be done in such a manner as to not impede the progress of the changes being made by the City, provided, however, that this section shall not be interpreted to deny the Company reimbursement as provided by state statutes.

SECTION 4. Prior to any highway, street, avenue, road, alley, lane, way, utility easement, parkway or other public ground being entered by the Company, the Company shall obtain a Street Cut Permit from the City (see Ordinance 2123) and within a period of thirty (30) days restore the same to their former condition as nearly as practicable and in such a manner as to meet the approval of the City Engineer or other responsible agent of the City. Street patches that meet or exceed the quality of the existing street condition shall be made within five (5) days of the completion of the gas line construction or repair. In the event the Company shall fail to restore said streets, avenues, roads, alleys, lanes,

ways, utility easements, parkways, or other public grounds to their former state, as nearly as practicable, the City may, itself, after giving the Company reasonable written notice, make restoration and charge the costs thereof to the Company. A letter size sketch shall be submitted with the permit on any extension, retirement or alterations to the mains.

SECTION 5. The Company shall, at all times, defend, idemnify and hold harmless the City and any of said City's representatives from and against any and all lawful claims, including expense for defense of said claims for injury to any person or property by reason of the failure of the Company or its employees to exercise the standard of care and diligence imposed by law in and about the installing and maintenance of said system, guarding trenches and excavations while said system is being installed, or subsequent extensions, repairs or alterations are being made or generally in the operation and maintenance of said system, provided the Company shall have been notified in writing of any claim against the City on account thereof and shall have been given ample opportunity to defend the same.

SECTION 6. The City and the Company hereby agrees that this Ordinance shall, from time to time, be subject to rules and regulations adopted by the Company and approved by the City of Morristown and the State of Tennessee Public Service Commission, or any other regulatory body having jurisdiction thereof during the term of this Ordinance, and shall also be subject to all rules and regulations adopted and approved by the City of Morristown and State of Tennessee Public Service Commission or any other cognizant regulatory body and that all such rules and regulations shall be and become part of

this Ordinance to the same extent and with the same effect as if said rules and regulations were herein set out in full; that the Company shall not be obligated or required to make any extension of distribution mains except in accordance with the provisions relating thereto adopted or approved by the City of Morristown and the State of Tennessee Public Service Commission.

SECTION 7. Nothing contained herein shall be construed as preventing the Company from installing, placing, replacing, taking up, repairing or removing gas pipes, mains, service pipes or other devices for furnishing gas service, from using any easements for gas service which are shown on any plat or plats of any portion of the City heretofore or hereafter platted or recorded, or any easement which may hereafter be created, granted or dedicated for any such utility purposes by any person, firm or corporation whatsoever. The above shall be coordinated with the City of Morristown by Street Cut Permit in order to facilitate these operations and to avoid conflicts with other utilities as well as other interested parties.

SECTION 8. If any section or portion of any section of this Ordinance shall hereafter be declared or determined by any court of competent jurisdiction to be invalid, the Company and City may elect to ratify or confirm the remaining portions of this Ordinance and upon such ratification or confirmation the remaining portions of this Ordinance shall remain in full force and effect. In the event no such agreement is reached between the City and Company within 90 days of the final judgement declaring the ordinance or a portion thereof invalid, the ordinance in its entirety shall terminate as of the 91st day thereafter.

SECTION 9. The Company shall, within sixty (60) days after the passage of this ordinance, file with the City Recorder of the City of Morristown its unconditional acceptance of the terms and conditions of this Ordinance, signed by its President, and, after the filing of such acceptance, this Ordinance shall constitute a contract between the parties hereto and shall (subject to the rights and powers vested in and orders lawfully issued by the State of Tennessee Public Service Commission or such other regulatory body of the State of Tennessee as may hereafter succeed to the rights and powers of the State of Tennessee Public Service Commission or as may exercise statutory jurisdiction of gas companies furnishing gas service in the State of Tennessee) be the measure of the rights, powers, obligations, privileges and liabilities of the City and of the Company.

SECTION 10. Nothing contained herein shall prevent the City from levying future franchise taxes or other lawful charges during the term hereof.

SECTION 11. All the privileges given and obligations created by this Ordinance shall be binding upon the successor and assigns of the Company.

SECTION 12. This Ordinance shall take effect and be in force immediately upon its passage by the City and approval by the Mayor of said City.

Passed on First reading this 4 day of December, 1979.



Mayor

ATTEST:



Recorder

Passed on Second reading this 18 day of December, 1979.

ORDINANCE NUMBER 2344 BEING AN ORDINANCE
TO AMEND ORDINANCE NUMBER 2203 GRANTING TO UNITED CITIES GAS
COMPANY, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT,
MAINTAIN AND OPERATE A SYSTEM OF GAS MAINS AND SERVICE PIPES
FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING GAS IN, UPON,
ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS,
ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND PUBLIC
GROUNDS OF THE CITY OF MORRISTOWN, TENNESSEE, BY PROVIDING FOR
THE CONTINUATION OF COLLECTION BY THE CITY OF A FRANCHISE FEE
FROM UNITED CITIES GAS COMPANY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
MORRISTOWN, TENNESSEE THAT ORDINANCE NUMBER 2203 BE AMENDED BY
ADDING THERETO THE FOLLOWING, AFTER SECTION 9 AND BEFORE
SECTION 10 THEREOF:

"United Cities Gas Company, hereinafter referred to
as Company, shall collect and pay annually to the
City a franchise fee equal to five (5%) percent of
the gross receipts of the company from retail gas
sales within the corporate limits of the City of
Morristown, Tennessee. Until and unless otherwise
directed by the City, said payment shall be made
monthly. The company shall furnish to the City a
monthly statement of said gross receipts and the
books of the company, as they relate to the
Morristown franchise area, and same shall be
available for audit at any reasonable time requested
by the City. The five (5%) percent franchise tax

shall, and City and Company agree that same will be levied for a term ending December 17, 1999. City and Company further agree that said franchise payments are subject to and shall be treated in accordance with Tennessee Code Annotated, Section 65-4-105.

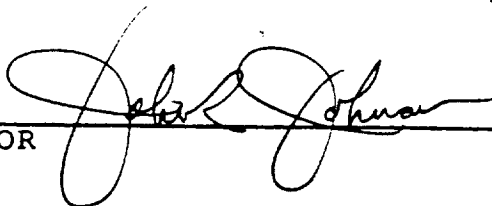
In the event that the Company, or its successors and assigns, ceases to be a franchisee of the City prior to the expiration of the term hereof, then in that event the franchise tax provided for herein shall be void as of the date of said franchise termination and the company shall be thereafter discharged from any responsibility for collecting or paying over to the City any such franchise fee.

Final passage of this ordinance and acceptance of same by Company shall constitute an agreement binding upon the City and Company.

Passed on first reading the 4 day of ^{January}~~December~~,

1983.

MAYOR

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature appears to be "John R. Johnson".

ATTEST:

James B. Grady
CITY RECORDER

Passed on second and final reading the 18 day of

January, 1983.
John E. Johnson
MAYOR

ATTEST:

James B. Grady
CITY RECORDER

ACCEPTED THIS 7th DAY OF MARCH, 1983.

UNITED CITIES GAS COMPANY

BY:

Emil Kooner
PRESIDENT

AN ORDINANCE Granting to United Cities Gas Company, Its Successors and Assigns a Franchise to Construct, Maintain and Operate a System of Gas Mains, Service Pipes and Other Necessary Equipment and Facilities, for the Purpose of Transmitting and Distributing Gas In, Upon, Across, Along and Under the Highways, Streets, Avenues, Roads, Courts, Alleys, Lanes, Ways, Utility Easements, Parkways, and Public Grounds of the City of Bristol, Tennessee

BE IT ORDAINED by the City Council of the City of Bristol, Tennessee as follows:

SECTION 1. This ordinance shall be known and may be cited as the "United Cities Gas Company Franchise Ordinance".

SECTION 2. For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a) City - the City of Bristol, Tennessee
- b) City Manager - the City Manager of the City of Bristol, Tennessee as duly appointed pursuant to Charter.
- c) Company - United Cities Gas Company, an Illinois corporation, the grantee of rights under this franchise and its lawful successors or assigns.
- d) Construction - the installation, laying, erection, renewal, repair, replacement, extension, removal of such activity as may be necessary to construct, maintain and operate a gas system.
- e) Council - the City Council of the City of Bristol, Tennessee
- f) Gas System - any pipe, pipeline, tube, main, duct, conduit, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, appliance, attachment, appurtenance and any other personal property constructed, maintained, or operated by United Cities Gas Company as may be necessary to import, transport, distribute and sell gas.
- g) Streets - the public streets, highways, avenues, roads, courts, alleys, lanes, ways, utility easements, parkways, or other public grounds in the City as they now exist or as they may be established at any time during the term of this franchise in the City.

SECTION 3. There is hereby granted to United Cities Gas Company, for a period of twenty-five (25) years from and after approval of this ordinance, and the filing of acceptance by the Company, the right, authority, privilege, and franchise to construct, maintain and operate a gas system to import, transport, distribute and sell gas; whether natural, manufactured or mixed:

- a) to the City and inhabitants, institutions and businesses thereof for domestic, commercial, industrial and institutional uses and any such other purposes for which it is or may hereafter be used; and
- b) through the City to inhabitants, institutions and businesses outside the corporate boundaries for domestic, commercial, industrial and institutional uses and any such other purposes for which it is or may hereafter be used.

This ordinance shall be reviewed every five (5) years or as necessary in order to update any of the various sections herein as required.

SECTION 4. The gas system shall be constructed, maintained and operated in accordance with the best, latest and most acceptable engineering practices; Part 192 of the Code of Federal Regulations, applicable statutes of the State of Tennessee; ordinances of the City of Bristol, Tennessee; the rules and regulations of the Tennessee Public Service Commission or of any other governmental regulatory commission, board or agency having jurisdiction over the Company, as such practices and codes, statutes, ordinances, rules and regulations now exist or as they may be from time to time amended, changed or modified, and shall be so constructed as not to interfere with or injure any utility or any other public improvement which the City has heretofore made or may hereafter make in, upon, across, along or under any streets and shall not unnecessarily obstruct or impede such streets of the City and shall conform to grades and locations as then or hereafter established by the City.

SECTION 5. The Company shall not construct any gas system in, upon, along, across, under or over the streets of the City until and unless the proposed character, location and elevation of such gas system shall have been approved by the City Manager. Approval, except in the case of emergency, or as hereinafter provided, shall require the Company to do and perform each of the following:

- a) File with the City Manager a drawing or plat showing the proposed location and elevation above or below the established grade of the center line of the street or ground and the character of the system to be constructed.
- b) Make application to the City Manager in accordance with the provisions of any ordinances of the City in force and effect at the time of making such application and secure a permit therefore from the City which shall indicate the time, manner and place of constructing said system.
- c) At the option of the City, deposit with the City a cash or surety bond guaranteeing the performance of the work so to be done. The amount of this deposit shall be such amount as, in the opinion of the City Manager, is sufficient to cover such performance,

and said deposit may be held by the City until the expiration of a six (6) month warranty period covering property restoration.

In the case where the Company desires to construct service connections, which constitutes work of a minor routine and repetitive nature, the Company may apply for a single permit, guaranteed by required cash or security bond, to cover projected work schedules for a period of one (1) calendar year.

The provisions of this section shall not be applied or interpreted in such a way as to prevent or delay Company work that may be required as a result of any emergency leak or hazard or danger that jeopardizes public safety or property. Likewise the provisions of this section anticipate that the Company shall not be unreasonably denied permission to perform necessary work and that any required bond shall not be set at an unreasonable level.

If the proposed location of any system to be constructed by the Company in, upon, across, under or over the streets of the City does not interfere with (a) the use of streets for purpose of travel, (b) with any use or contemplated use of streets by the City either above or below the surface of the street for which plans have been prepared or for which plans are in the course of preparation, which plans have been authorized by the City, (c) personal property lawfully in, upon, along, across, under, or over the streets, and otherwise complies with this franchise and any ordinance, rule, or regulation of the City in force and effect at the time of such application, the City Manager shall approve such applications and a permit shall be issued therefore by the City.

Approval or disapproval of the application by the City Manager shall be accomplished within fifteen (15) days after filing with the City. If after fifteen (15) days the City Manager has failed to act, the application shall be deemed approved.

The permit shall become null and void if no significant construction and progress is made within six (6) months after issuance of the permit.

SECTION 6. The Company shall notify the City three (3) days prior to the beginning of any construction covered by the permit. The Company shall, likewise, give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the construction by other parties having jurisdiction.

The Company shall provide adequate supervision of the construction and have a responsible representative together with one (1) set of drawings at the site at all times when construction is being performed.

Inspections during construction shall be made by the City, as required, to certify compliance with the permit.

Construction shall be performed with the least practicable hindrance of the use of the streets for the purpose of travel or any other public purpose. After any work has commenced by the Company, in, upon, along, across, under, or over the streets of the City, the same shall be prosecuted in good faith and with due diligence until completed. If, as determined by the City Manager, the Company refuses or fails to prosecute the construction, or any separable part thereof, with such diligence as will insure its completion in compliance with the permit and pursuant to the provisions of this franchise, the City Manager will issue notice to the Company of his findings and instructions and, if after three (3) days the Company has not commenced to re-execute the work, the City Manager will cause the construction required in said notice to be done and performed and charge the Company the entire cost and expense plus thirty (30%) percent therefore of so completing the construction.

When any construction opening or excavation or damage is made in, along, upon, across, under or over the streets for any purpose whatsoever by the Company, any portion of said streets affected or damaged thereby shall be restored, as promptly as possible, but no later than five (5) days following completion of construction, to as useful, safe, durable, and good condition as existed prior to the making of such opening or such excavation or such damage unless the Company is unable to comply with the provisions of this section by reason of strikes, riots, acts of God, or acts of public enemies or other factors beyond the control of the Company. There is excepted from this provision restorative work of a temporary nature allowing for such requirements as trench and backfill consolidation and fine grading and vegetative stabilization. The temporary restorative work shall be accomplished immediately in accordance with best acceptable construction procedures and shall be continuously maintained in a useful and safe condition pending permanent restoration.

The Company shall keep such portion of said streets as provided in the paragraph above so restored in as useful, safe, durable, and good condition as existed prior to the making of such opening or such excavation or such damage for a period of six (6) months.

When the streets are opened, or any other construction activity is required in the streets by the Company, said Company shall place and maintain all necessary safety devices, barriers, lights, and warnings to properly notify all persons of any dangers resulting from such construction entrances. The Manual on Uniform Traffic Control Devices for Streets and Highways, as approved by the Federal Highway Administrator and as may be amended from time to time shall be the standard used in determining necessary placement of such devices, barriers, lights, and warnings.

SECTION 7. If, during the term of this franchise, it becomes necessary or expedient for the City to change the course, grade, width, or location, or improve in any way any streets, including the laying of any sewer, storm drain, conduit, water or other pipes, in which the Company has any gas system which, in the opinion of the City Manager, will interfere with such change on the part of the City, it is agreed that the Company will, at its own expense, within twenty (20) days after written notice from the City Manager and request to do so, begin the work of completing any and all things necessary to effect such change in position or location in conformity with such written instructions. It is further agreed that the Company will lend necessary and related support thereof to the City while such work is being completed or performed. Work by the Company shall be done in such a manner as to not impede the progress of the changes being made by the City; provided, however, that this section shall not be interpreted to deny the Company reimbursement as provided by State statute.

SECTION 8. The City reserves the right by ordinance at any time during the term of this franchise to require the Company at its own cost and expense to remove any or all of its mains and service lines above the surface of the streets and to place and locate the same below the surface of the streets whenever such right, in the opinion of the City Manager, should be exercised by the City. Provision does not include above ground pressure regulating stations.

SECTION 9. If the Company is dissatisfied with any determination of the City Manager permitted by the foregoing sections hereof, it may petition the City Council within ten (10) days after such determination to review the same.

SECTION 10. Nothing contained herein shall be construed as preventing the Company from installing, placing, replacing, taking up, repairing or removing any portion of the gas system; from using any easements for the gas system which are

shown on any plat or plats of any portion of the City heretofore or hereafter platted or recorded, or any easement which may hereafter be created, granted, or dedicated for any such purposes by any person, firm or corporation whatsoever. The above shall be coordinated with the City through procedures outlined heretofor in order to facilitate these operations and to avoid conflicts with other utilities as well as other interested parties.

SECTION 11. All rights herein granted and/or authorized shall be subject to and governed by this ordinance, provided, however, the governing body of the City expressly reserves unto itself all its police power to adopt general ordinances and take other action necessary to protect and promote the safety and welfare of the general public in relation to the rights now reserved to or in the City of Bristol under its Charter and to all such rights as are now provided by general law.

SECTION 12. The Company shall at all times defend, indemnify and hold harmless the City and any of the City's representatives from and against all loss sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever resulting from the failure of the Company or its employees to exercise due care and diligence in the construction, operation, and maintenance of its gas system in the City of Bristol, provided the Company shall have been notified in writing of any claim against the City on account thereof and shall have been given ample opportunity to defend same. The right of indemnification shall include and extend to reasonable attorney fees and trial preparation expenses and other litigation expenses reasonably incurred in defending a claim arising from the operation of the gas system by the Company, whether or not the claim later be proved to be without merit.

The Company hereby agrees, upon official request of the City, to furnish to the City evidence of insurance in such amounts as may be reasonably necessary to protect the City.

SECTION 13. The Company shall pay to the City during the term of this franchise an amount equal to two and one-half percent (2½%) of its annual gross revenues from the sale of the Company's manufactured, natural or co-mingled gas or other gas sold within the City through the system. Nothing contained herein shall prevent the City from increasing or otherwise modifying the fee after adoption of this ordinance. Said franchise fee shall be payable each year, such payment to be made on or before March 1 of each year so long as the Company shall supply and sell natural gas to the public within said City or so long as this franchise is in effect. In the event said Company shall fail to pay said sum so stipulated, then the City reserves the right to revoke this franchise if said amount that is due and payable is not paid within a period of sixty (60) days after written notice of such delinquency to Company.

The City shall have access at all reasonable times to the books of the Company for the purpose of ascertaining the amount of fee due the City. The Company shall furnish to the City a report showing the amount of gross revenues from its sale of gas within the City annually. The franchise fee imposed herein shall be effective from and after the adoption of this ordinance and acceptance by the Company.

Subject to the approval of the Tennessee Public Service Commission, said franchise fee provided for herein may be renegotiated from time to time during the term of this franchise, but in no event shall said fee be set higher than five percent (5%). Provided further that parties may negotiate a different basis for determining the amount of said fee, to wit, the parties may agree that said fee should be based upon volume sold as opposed to gross revenues.

SECTION 14. In the event the Company desires to sell or transfer the entire assets of the gas business which is the subject of this ordinance, then the Company must offer to the City the opportunity to buy those assets located and situated in the City of Bristol upon the same terms as being offered to some other party. The City will have sixty (60) days to accept the offer and an additional sixty (60) days to close said transaction, in the event the City elects to exercise the option to purchase.

In the event the City chooses not to exercise the option to purchase, the City shall continue to have the right to approve any sale, assignment, or transfer that Company may desire and this franchise cannot be sold, assigned, or transferred without the express written consent of the City Council, provided, however, that such consent shall not be unreasonably withheld.

In any negotiations between the City and the Company for the purchase of the Company's property by the City, no value shall be placed upon this franchise by the grantee in arriving at the purchase price.

SECTION 15. The City and the Company hereby agree that this ordinance is subject to the approval of the Public Service Commission for the State of Tennessee and that the ordinance shall also be subject to the rules and regulations of the Commission as they may from time to time be changed and that all such rules and regulations shall be and become part of this ordinance to the same extent and with the same effect as if said rules and regulations were herein set out in full.

The Company shall make every reasonable effort to furnish an ample and uninterrupted supply of gas to all customers throughout its entire system within the City and on any enlargements and extensions thereof within the City. The Company shall not unreasonably or arbitrarily refuse to make an extension for the purpose of giving gas service to the City, the inhabitants, institutions and businesses thereof. The Company shall also file with the City its extension policy and any changes as may from time to time be adopted, as filed with and approved by the Public Service Commission.

Furthermore, the Company will at all times keep the City Manager apprised of its current gas rates, charges, and pricing policies charged to City residents and changes to such rates, charges, and pricing policies whether changes are initiated by the Company or by a third party. In the event the Company files a rate change request with the Public Service Commission, it shall provide the City Manager with a copy of the request at the time of the filing.

During such time, if any, as there shall be no other duly constituted governmental authority having jurisdiction over the tariffs, rates, fixed charges, terms and conditions of service to be rendered by the Company, then the City Council of the City of Bristol, Tennessee shall have jurisdiction to prescribe and fix by ordinance tariffs, rates, charges, terms and conditions governing the furnishing of said gas service which shall be sufficient to yield the Company a reasonable return upon the fair value of its property used and useful in rendering said service.

SECTION 16. The grantee shall file with the City Manager a duplicate original of the Annual Report of the grantee's operations in the City filed with the Public Service Commission of the State of Tennessee or its successors in authority, as now required by the Public Utility Act, or as may be required by any other act of the legislature of the State of Tennessee, as soon as practicable after one duplicate original of said report has been filed with said Commission or its successors in authority, which report shall set forth the grantee's complete operation in the City.

SECTION 17. Any flagrant or continuing violation of the provisions of this franchise agreement by the Company or its successors shall be cause for forfeiture of this Franchise Agreement, provided that the City shall have given the Company written notification of such violations and allows the Company a reasonable and appropriate time schedule as determined by the City Manager to correct the cited violations.

SECTION 18. After adoption of this ordinance, should any section, subsection, sentence, provision, clause or phrase of this ordinance be declared by the Public Service Commission or by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of this ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional, it being the intent in adopting this ordinance that no portion thereof or provision or regulation contained therein shall become inoperative or fail by reason of the unconstitutionality or in validity of any other portion or provision or regulation.

SECTION 19. The Company shall within sixty (60) days after the passage of this ordinance file with the City Recorder of the City of Bristol its unconditional acceptance of the terms and conditions of this ordinance, signed by its president, and, after the filing of such acceptance, this ordinance shall constitute a contract between the parties hereto and shall (subject to the rights and powers vested in and orders lawfully issued by the State of Tennessee Public Service Commission or such other regulatory body of the State of Tennessee as may hereafter succeed to the rights and powers of the State of Tennessee Public Service Commission or as may exercise statutory jurisdiction of gas companies furnishing gas service in the State of Tennessee) be the measure of the rights, powers, obligations, privileges, and liabilities of the City and of the Company. Furthermore, a copy of the written approval of the Public Service Commission shall be furnished to the City Recorder by the Company and a copy of the same filed with this franchise ordinance.

SECTION 20. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 21. This ordinance shall become effective seventeen days from and after its final passage, the welfare of the City requiring it.



Vice-Mayor

Passed 1st reading 2/1/83

Passed 2nd reading 3/1/83

ACCEPTANCE OF FRANCHISE

In accordance with the terms and conditions of that certain Ordinance entitled "United Cities Gas Company Franchise Ordinance" enacted March 1, 1983 by the City Council of the City of Bristol, Tennessee, granting a franchise to operate a Gas System within the City of Bristol, Tennessee, this will serve, pursuant to Section 19 thereof, as the Unconditional Acceptance of all the terms and conditions contained in said Ordinance by the Grantee, United Cities Gas Company.

Signed this 8th day of March, 1983.



President

ATTEST:



Secretary

ACCEPTANCE OF FRANCHISE

In accordance with the terms and conditions of that certain Ordinance entitled "United Cities Gas Company Franchise Ordinance" enacted March 1, 1983 by the City Council of the City of Bristol, Tennessee, granting a franchise to operate a Gas System within the City of Bristol, Tennessee, this will serve, pursuant to Section 19 thereof, as the Unconditional Acceptance of all the terms and conditions contained in said Ordinance by the Grantee, United Cities Gas Company.

Signed this 8th day of March, 1983.



President

ATTEST:




Secretary

RECEIPT

March 17, 1983

I, N. J. Sparger, City Recorder of Bristol, Tennessee, hereby acknowledge receipt of the Acceptance of United Cities Gas Company accepting the franchise ordinance of the City of Bristol, Tennessee, the same adopted on March 1, 1983, and entitled: "AN ORDINANCE GRANTING TO UNITED CITIES GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE A SYSTEM OF GAS MAINS, SERVICE PIPES AND OTHER NECESSARY EQUIPMENT AND FACILITIES, FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING GAS IN, UPON, ACROSS, ALONG, AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, COURTS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND PUBLIC GROUNDS OF THE CITY OF BRISTOL, TENNESSEE".

IN WITNESS WHEREOF, I N. J. Sparger, City Recorder of Bristol, Tennessee, have affixed my hand to said receipt as such City Recorder together with the Seal of the City of Bristol, Tennessee.



City Recorder
Bristol, Tennessee

(SEAL)